



**Nurses Association**  
OF NEW BRUNSWICK

# Guidelines for Consent



## MISSION

The Nurses Association of New Brunswick is a professional regulatory organization that exists to protect the public and to support nurses by promoting and maintaining standards for nursing education and practice, and by promoting healthy public policy.

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## PREAMBLE

The Nurses Association of New Brunswick (NANB) is a professional regulatory organization that exists to protect the public and to support registered nurses<sup>1</sup> (RNs) by promoting and maintaining standards for nursing education and practice, and promoting healthy public policy. Through the *Nurses Act*, the nursing profession is granted the authority to set standards for education and practice of its members, with an obligation to protect the public and serve the public interest.

Guidelines support best practice in nursing. They identify principles, give instructions, information or direction, clarify roles and responsibilities, and/or provide a framework for decision making.

## INTRODUCTION

Registered nurses (RNs) are responsible for their practice and must always act in the best interest of the client, in doing so, RNs must recognize that clients retain the right to make decisions about the management of their own health care. These guidelines will focus on the RN's legal and ethical obligation to ensure the client or substitute decision-maker<sup>2</sup> is supported throughout the consent process, as it applies to all practice settings.

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<sup>1</sup> For this document, the term registered nurse includes nurse practitioner

<sup>2</sup> Substitute decision-makers: in relation to an individual, means, unless the context requires otherwise, a person who is authorized to give, withhold or to withdraw consent on behalf and in the place of the individual. (NB Personal Health Information Privacy and Access Act, 2009)



## PRINCIPLES

The following statements outline the principles in relation to consent.

- From a legal and ethical perspective, clients have the right to information about their care and treatment, and a right to accept or refuse that treatment.
- Consent does not always need to be written, but can be verbal or implied<sup>3</sup>.
- RNs always explain to the client and/or substitute decision maker the treatment or procedure they are performing.
- Documentation is an integral part of the consent process.
- RNs should not provide a treatment if there is any doubt that the client understands and is capable of consenting. This applies whether or not there is an order, or even if the client has already consented. In exceptional circumstances, legislation may dictate the care to be provided to the client without consent.
- Consent can be withdrawn at any time.
- A substitute decision-maker has the right to access the same information that a client would be able to access.
- RNs need to advocate for clients' access to information about care and treatment if it is not forthcoming from other care providers.

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<sup>3</sup> Implied consent: consent that is inferred from signs, actions, or facts, or by inaction or silence. (e.g., client rolls up sleeve after the RN explains that she's here to take vital signs). <http://legal-dictionary.thefreedictionary.com/Implied>



# CONSENT

Consent protects the right of the client to be involved in an informed decision-making process about their own health care. Giving or refusing consent to care, treatment or research is an important step in the informed consent process.

RNs have the responsibility to adhere to the ethical values of the nursing profession by upholding the values of the *Code of Ethics for Registered Nurses* and practising according to its responsibility statements. *The Code of Ethics for Registered Nurses* considers consent in the context of promoting and respecting informed decision-making, stating: "...nurses, to the extent possible, provide the persons in their care with the information they need to make informed decisions related to their health and well-being, and... nurses ensure that nursing care is provided with the person's informed consent" (CNA, 2008).

Informed consent requires a process of communication between a client and/or substitute decision maker and a member of the healthcare team that results in the client's authorization, agreement or refusal to undergo a specific intervention/procedure. It is more than simply getting a client to sign a consent form. Consent is informed if, before giving it, the person received the information about the treatment that a reasonable person in the same circumstances would require to make a decision and the person received responses to his/her requests for additional information about the treatment.

The information must include the:

- nature of the treatment;
- expected benefits of the treatment;
- risks and side effects of the treatment;
- alternative courses of action; and
- likely consequences of not having the treatment.

The Canadian Nurses Protective Society further describes the informed consent as a process whereby the client is provided with sufficient and easily understood information that should include the consequences of refusing the treatment and an explanation of alternatives and their risks.



## GUIDELINES

Registered nurses will:

1. Respect client's rights to make decisions about the management of their own health care. Giving, refusing or withdrawing consent to care, treatment or research is an important step of the informed consent process;
2. Know which legislation and employer policies applies to their practice and follow legislated and policy requirements (for example, the Medical Consent of *Minor Act*);
3. Contribute, with the care team, to the determination of the client's capacity to give consent. If necessary, RNs identify the person who is authorized and able to make health care decisions on the client's behalf. Regardless of a client's capacity to give consent or not, the client should be informed about any care, treatment or research before it is undertaken;
4. Obtain consent prior to carrying out care, treatment or research unless legislation dispenses with consent. Registered nurses are responsible for obtaining consent for care or treatment they carry out (Appendix A). It is not appropriate for RNs to take responsibility for obtaining consent for care or treatment provided by another health professional (Appendix B);
5. Recognize that consent may be given verbally, in writing, through an alternative communication system (e.g., computer assisted) or through behaviour that implies consent;
6. Provide the client and/or substitute decision-maker with the information that a reasonable person would require in order to make an informed decision about proposed health care. The information should be sufficient, specific and evidence-based. This includes information about:
  - the condition for which the health care is proposed;
  - the nature of the proposed health care;
  - the risks and benefits of the proposed health care or of refusing the care; and
  - alternatives to the proposed health care.
7. Provide information in a timely and appropriate manner, taking into account the individual's abilities, age, culture, language and preferences. The client or their substitute decision-maker should have an opportunity to ask questions and receive answers;



8. Be sensitive to the imbalance of power between health professionals and clients and/or substitute decision makers and should not influence clients' decision making through coercion, fraud or misrepresentation in the consent process;
9. Respect the right of the client and substitute decision-maker to seek further information or another opinion and to involve others in the decision-making and consent process;
10. Provide care without consent in exceptional circumstances. This occurs only when **all** of the following conditions apply:
  - the client is unable to provide consent;
  - no substitute decision-maker is reasonably available;
  - the decision to provide care without consent is determined to be in the best interest of that client;
  - the client's prior wishes for care or treatment are not known or are unclear;
  - the care or treatment must be provided without delay (e.g., in order to preserve life or to prevent serious physical or mental harm).
11. Document the consent process, including a refusal or withdrawal of consent. Depending of the context, documentation may include:
  - explanation provided to the client about the intervention, its benefits or the anticipated outcomes;
  - explanation of the consequences if intervention is not taken;
  - potential options;
  - potential risks;
  - client's response to and understanding of the explanation.
12. Take action if any concerns related to consent are identified.



## CONCLUSION

Consent is an integral aspect of client care. RNs have the responsibility to ensure clients or substitute decision-makers understand the plan of care including proposed interventions so to protect the client's dignity; identify any fears; and provide the information, education and support to help the clients or their substitute decision-makers to make decisions about their health care. The principles of informed consent should underpin the approach to nursing care procedures and take into account the needs of individual clients.



## SUPPORT DOCUMENTS

To assist you in better understanding the important legal and professional requirements to consider in obtaining consent, you may want to consult the following documents, available online:

*Standards of Practice for Registered Nurses*

[http://www.nanb.nb.ca/downloads/NANB%20Standards%20of%20Practice%20for%20Registered%20Nurses%202012\\_E.pdf](http://www.nanb.nb.ca/downloads/NANB%20Standards%20of%20Practice%20for%20Registered%20Nurses%202012_E.pdf)

*Standards of Practice for Primary Health Care Nurse Practitioners*

[http://www.nanb.nb.ca/PDF/NP\\_Standards\\_FINAL-E.pdf](http://www.nanb.nb.ca/PDF/NP_Standards_FINAL-E.pdf)

*Code of Ethics for Registered Nurses*

<http://www.nanb.nb.ca/PDF/practice/CNA%20Code%20of%20Ethics.pdf>

Canadian Nurses Protective Society INFO-Laws

- *Consent for CPR*  
<http://www.cnps.ca/index.php?page=103>
- *Consent for Incapable Adults*  
<http://www.cnps.ca/index.php?page=102>
- *Consent to Treatment*  
<http://www.cnps.ca/index.php?page=101>

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## APPENDIX A – STRATEGIES FOR OBTAINING CONSENT

The following information offers strategies for registered nurses when obtaining consent.

1. It is important to take into consideration client's privacy and comfort when obtaining consent, and regardless of their determinants of health, each client should be treated equally.
2. Registered nurses are responsible for ensuring the client or substitute decision-maker understands the information and options presented. The discussion may need to be repeated a number of times and in different ways in order for some clients to fully comprehend the choices available to them. Communication can be strengthened by giving explanations in ways best understood by the client or substitute decision-maker and using a combination of strategies. These might include:
  - giving verbal explanations;
  - using visual aids and handouts;
  - validating that the client understands the information provided;
  - asking the client if they have any questions;
  - involving any family or friends who are supporting the client with his or her authorization.
3. When clients have a reduced capacity for decision-making, registered nurses support them to participate in making decisions that are within their capacity. If nurses have any concerns about consent, they are expected to take appropriate action (i.e. inform others in the circle of care, if necessary, of identified concerns).
4. Registered nurses must respect the fact that some clients or substitute decision-makers may require more time than others to understand the information they have received and to reflect on their choices.



## APPENDIX B -WORKING IN COLLABORATION: OBTAINING CONSENT

When involved in care or treatment that is being provided by another health professional (e.g., surgeon, anesthetist), ensure the client or substitute decision-maker has given consent, has sufficient information and understands the proposed care or treatment. If necessary, advocate for and support the client or substitute decision-maker in getting more information.

According to the Canadian Nurses Protective Society *a nurse or other designated person may witness the signing of the consent form even when the physician has explained the procedure elsewhere. Witnessing a signature is not a declaration that the RN provided information about risks and alternatives* (CNPS, 1994); however, you must ensure that the client understands the procedure that is proposed. Institutional policies should be followed regarding witnessing consent and the duration of a previously signed consent form.

Clients or substitute decision-makers should be active participants in establishing the plan for nursing care. When establishing the plan that will be carried out by members of the nursing team ask the client or substitute decision-maker to consent to the overall plan. This facilitates the implied consent when providing repetitive and routine aspects of the plan of care; it does not however, remove the RN's responsibility to provide information to the client when providing care



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